



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT PATTERSON AIR FORCE BASE, OHIO

9 November 2000

MEMORANDUM FOR HQ AFMC/ENPM

FROM: HQ AFMC/JAQ

SUBJECT: Contractor Access to Databases Containing Limited Rights Technical Data

1. You asked us whether Advisory and Assistance Services (A&AS) contractor personnel may be given access to limited rights technical data contained in various electronic databases.
2. Rights in technical data are based on statute (10 U.S.C. 2320), regulation (DFARS subpart 227.71) and the contract under which the data were delivered. The "standard" data rights clause (DFARS 252.227-7013) states (with very narrow exceptions not applicable here) that the Government may not release limited rights data "outside the Government" without written permission of the party asserting the limited rights. For purposes of the data rights clause, A&AS contractors are "outside the Government." As such, if databases contain limited rights technical data, you have the following limited alternatives:
 - a. Obtain the written permission of the party asserting the limited rights for the A&AS contractor(s) to have access to the data. The consent could be on a "individual" basis for specific data, for a specific database, or for specific A&AS contractors, or on a "class" basis for all data or for all A&AS contractors.
 - b. If consent cannot be obtained, then access by A&AS contractors must be restricted to unlimited rights and Government Purpose License Rights data. This may mean that certain work involving limited rights data will have to be performed solely by Government personnel. We recognize that this may present difficulties. However, unauthorized disclosure by Government employees of "trade secrets" and other "confidential information" subjects them to possible criminal prosecution under 18 U.S.C. 1905.
3. In summary, if there are limited rights data in a database, you must either get written permission to allow access to A&AS contractors or restrict access to Government personnel. Our POC for further questions is Mr. John Case, DSN 787-5958.

A handwritten signature in black ink, reading "Terrence J. Moran".

TERRENCE J. MORAN, Colonel, USAF
Director, Acquisition Law Division